

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.2112 of 2015

In
Civil Writ Jurisdiction Case No.116 of 2013

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Smt. Pratima Singh, Retired District Program Officer, Department of Social Welfare, Government of Bihar, Patna wife of Shri Parmanand Pandey resident of Mohalla - Laxminarayan Nagar, Bela, P.O. - Ram Krishna Ashram, Bela, P.S. - Mithanpura, District - Muzaffarpur.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Secretary, Social Welfare Department, Government of Bihar, Patna.
3. The Special Secretary, Social Welfare Department, Government of Bihar, Patna.
4. The Joint Director, Integrated Child Development Scheme Directorate-Cum-Enquiry Officer, Social Welfare Department, Government of Bihar, Patna.
5. The Joint Secretary, Social Welfare Department, Government of Bihar, Patna.
6. The District Magistrate, Banka, District - Banka.
7. Sri Alok Kumar son of not known to the petitioner presently posted as Executive Officer, Nagar Parishad, Banka, District - Banka.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Binod Kumar Singh, Advocate
		Ms. Vagisha Pragya V, Advocate
For the Respondent/s	:	Mr. Shailendra Kumar Singh, AAG-4

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-02-2018

The appellant was visited with a punishment of withholding of three increments. The punishment order was passed on 4.12.2012 and the appellant was superannuated on 31.01.2013. As the punishment of withholding three increments could not be implemented after the contract of service came to an end on superannuation of the appellant on 31.01.2013, the writ court disposed of the matter in the following terms:-



“The order of punishment is dated 4.12.2012, contained in Annexure-12. Petitioner has superannuated on 31.1.2013. Nothing can be made out with the kind of punishment of withholding three increments which was passed because petitioner is not entitled to any more increments, looking at the period when the punishment order was passed till her age of superannuation.

Writ application is disposed of.”

In our considered view even if the punishment order could not be implemented and no increment could be withheld, the learned writ court should have gone into the merits of the matter as the appellant has also challenged the punishment order on the ground of violation of principles of natural justice and the competency of the disciplinary authority in imposing the punishment. That apart, the question of right of the employer to impose any alternate punishment was also an issue which could have been considered by the writ court. All these aspects have not been gone into and the writ petition has been disposed in the manner as indicated above.

We are of the considered view that this appeal should be allowed and the matter remanded back for reconsideration of all the grounds in the writ court afresh.

Accordingly, this appeal is allowed. The order dated 26.8.2015 passed by the writ court stands set aside. CWJC No. 116



of 2013 is restored to its original file. We request the writ court to
decide the issue involved afresh in accordance with law.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
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